

Equinox Bias Verdict Shows Swift Employer Response Is Key

By **Jennifer Huelskamp** (July 21, 2023)

In recent years, discrimination claims against employers have risen drastically, and one such recent verdict in the U.S. District Court for the Southern District of New York illustrates just how high the stakes are for employers when dealing with harassment and discrimination in the workplace.

The ruling also shows how important swift, consistent investigation and discipline are when responding to individual internal complaints.

After being fired from her position managing personal trainers, former Equinox employee Robynn Europe brought a 10-count discrimination suit under Title VII; Title 42 of the U.S. Code, Section 1981; the New York State Human Rights Law; the New York City Human Rights Law; and the Americans with Disabilities Act against her former employer, Equinox Holdings Inc.



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The complaint alleged Europe was discriminated against on the basis of race, gender and disability due to, among other things, comments made by another employee, accommodation of a customer's racist request and her alleged wrongful termination. Her suit was based on both discrimination claims and complaints of a hostile work environment, including gender bias.

In response, Equinox did not deny that the employee in question made racially and sexually offensive comments, but the gym's position was that they were not sufficient to sustain a hostile work environment claim.

Instead, Equinox maintained it terminated Europe's employment in less than a year due to excessive tardiness because, according to the fitness chain, she was late 47 times over the course of her 10-month employment at the gym.

The case centered around allegations of wrongful and inappropriate conduct by a subordinate employee, who was a middle-aged white man. In her position, Europe was his supervisor, which she alleged was difficult for him to deal with as he repeatedly informed her that "she should not be his supervisor."^[1]

She alleged that he continually made inappropriate and racially driven comments, including calling Black personal trainers lazy, and made comments that he hoped he could get them fired.^[2] She also alleged he often made unsolicited remarks regarding the appearance of Black women and made comments that objectified women including how "hot" their bodies were.

The allegations also contend that the subordinate employee also tried to engage Europe in conversations about which women he thought were "the most sexually attractive."^[3]

In addition, in one incident, the complaint alleged he demanded that Europe wait outside the gym with him for a "very young Black woman" to come out from a nearby restaurant, so he could "make a pass" at the young woman.^[4] He thought "the presence of another Black woman" — Europe — would "reassure the much younger Black woman he was targeting, legitimize him and make her more receptive to his sexual advances."^[5]

Europe was highly offended by this behavior and "refused to be a racial pawn" or aid in his harassing conduct.[6] Though Europe made her former employer aware of this discriminatory and harassing behavior through internal complaints, Equinox continuously and repeatedly failed to investigate or look into Europe's grievances, according to the complaint.

Moreover, the complaint alleged that this behavior, the substantial emotional distress it placed on Europe and "the overall environment at Equinox exacerbated her bulimia," a previous medical condition, and that her recovery was therefore derailed, and she had to enroll in an eating disorder treatment center.[7]

In response to Equinox's claim that it fired Europe due to excessive tardiness, Europe stated this was simply pretext for the real, discriminatory, reason for her firing: discrimination and retaliation. Europe did not deny that she was often late for work, but presented evidence that many other employees were very often tardy but were not disciplined.

For example, the man who made the discriminatory and harassing comments to Europe allegedly regularly came in late to work and left early with no consequences.

After certain claims, including the retaliation claims, were disposed of upon summary judgment, Europe's claims for disparate treatment and hostile work environment moved on to the jury, who ultimately sided with Europe on liability.

The jury awarded Europe \$11.25 million for failing to stop another employee's racist and sexist treatment against her.

The jury first found Equinox liable for discrimination and awarded Europe \$1.25 million for pain and suffering; the jury further awarded Europe \$10 million in punitive damages. In addition, the parties previously stipulated to a \$16,000 back pay award.

The case highlights the missteps of employers when dealing with harassment and discrimination claims, and sends a loud message to employers, serving as both a cautionary tale and a road map for better policies and procedures.

First and foremost, internal complaints alleging discrimination and harassment must be taken seriously and handled according to well-written and well-executed policies. In the Equinox case, Europe alleged her complaints were not well received, and the inappropriate and discriminatory conduct she alleged certainly did not stop after she made her internal complaints.

Had Equinox taken the complaints seriously and taken steps to ensure the discriminatory and harassing behavior stopped, they may not have found themselves with an \$11.25 million damages award to pay.

Second, employers must continually follow up to ensure policies are being followed, and that any discriminatory conduct does not resume. Equinox failed to do so in this case, an exercise that may have helped the company avoid such a costly verdict in the long run.

Third, employers must ensure all managers and supervisors are properly trained regarding how to respond to and report complaints from subordinates. This is crucial to avoiding these types of claims to begin with.

Finally, though it is good practice to have solid policies and trainings in place to combat discriminatory and harassing behavior, in this case the jury determined that Equinox could not mitigate its bad behavior with such practices.

What ultimately matters is how you treat your employees when real-life instances of discrimination and harassment occur in the workplace.

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[1] Complaint (Compl.) at ¶17.

[2] Compl. at ¶23.

[3] Compl. at ¶23.

[4] Compl. at ¶21.

[5] Id.

[6] Id.

[7] Compl. at ¶73.